

U.S. DISTRICT COURT  
DISTRICT OF MASS

1 Plaintiff MICHAEL JONZUN alleges:  
2

3 **I**  
4 **JURISDICTION**

5 1. This court has jurisdiction over the subject matter of  
6 this action pursuant to 28 U.S.C. § 1338(a) and 28 U.S.C. §  
7 2201-2202, in that this action arises under the Copyright Act  
8 of 1976, as amended, 17 U.S.C. § 101 *et seq.* With regard  
9 to any claim stated below which is not brought under the  
10 Copyright Act, the court has jurisdiction over such other  
11 claim under the doctrine of supplemental jurisdiction,  
12 pursuant to 28 U.S.C. § 1367.  
13

14 **II**  
15 **PARTIES**

16  
17 2. Plaintiff MICHAEL JONZUN ("JONZUN") is an  
18 individual residing in the County of Barnstable, State of  
19 Massachusetts.

20 3. Defendant the ESTATE OF MICHAEL JOSEPH  
21 JACKSON is believed to be administered in the State of  
22 California.

23 4. Upon information and belief, Defendant MIJAC  
24 MUSIC is a trust with all rights transferred to and  
25 administered by Sony/ATV, a corporation with its principal  
26 place of business in New York, New York.

27 5. Defendant MICHAEL JACKSON COMPANY, LLC, is  
28 a Delaware Corporation with its principal place of business in  
29 Los Angeles County, California.



1 which the action may otherwise be brought.

2 **IV**

3 **GENERAL ALLEGATIONS**

4 15. On or about March, 1990, Plaintiff, Michael Jonzun  
5 (Jonzun) was approached by Julio Caro ("Caro"), manager  
6 for the artist Sa-Fire, to produce two songs by Safire for  
7 Polygram Records ("Polygram"). On or about April 3, 1990,  
8 Jonzun entered into a Producer's Agreement with Julio Caro,  
9 to produce two singles entitled "I Can't Cry" and "I Never  
10 Heard," with payment coming directly to Jonzun from  
11 Polygram Records.

12 16. Jonzun was a world renowned Music Producer,  
13 Songwriter/Composer, Multi-Instrumentalist, and Recording  
14 Artist, who had sold nearly 100 million records and videos  
15 worldwide, and had no less than (7) # 1 Billboard Chart Hits  
16 and climbing, among other industry accolades, to his credit  
17 at the time that Caro had approached Jonzun. Caro had  
18 several conversations with Jonzun about collaborating to  
19 help finish the song "I Never Heard", which was in a very  
20 rough unfinished demo form. The tape contained only a  
21 basic piano melody, lead vocal, finger snaps and a scat  
22 vocal. On or about April 3, 1990, Caro sent Jonzun a copy  
23 of a demo tape of "I Never Heard" with Paul Anka playing the  
24 piano and Michael Jackson singing the demo. It is believed  
25 that Jackson and Anka recorded the original demo in 1983.  
26 Caro asked Jonzun to "consider" two versions of the song

1 and also requested for his feedback on whether he liked the  
2 song.

3 17. Jonzun went on to create multiple versions of “I  
4 Never Heard”, changing, and/or eliminating, and/or adding  
5 such critical elements as the backbeat, chord progressions,  
6 shaker, rhythm guitar, orchestral strings, creating a main  
7 chorus hook chant, bass lines, harmonizing vocals, grand  
8 piano, harpsichord, lyrics, to name a brief few; all of which  
9 created the music bed and song foundation, as well as the  
10 main chorus hook chants of the composition, and thus  
11 completing the composition. Jonzun still has the tapes of the  
12 versions he created in his possession.

13 18. It was reported to Jonzun through Caro and  
14 Polygram Vice President of A & R Bruce Carbone  
15 (“Carbone”) that Michael Jackson loved what Jonzun did with  
16 his many song versions. Offers to purchase Jonzun’s  
17 interest in the song followed. Jonzun declined all offers.  
18 The business relationship broke down soon thereafter,  
19 although Safire included Jonzun in her thank-you’s on her  
20 album *I Wasn’t Born Yesterday*, when it was released in  
21 1991.

22 19. On or about October 2009, after Michael Jackson’s  
23 death, Sony Music released the song *This is it*, misleadingly  
24 referring to it as a “new single”. In addition to appearing on  
25 the album *This Is It*, it was also featured in the movie *This Is*  
26 *It*, the 2009 concert documentary.





1 as if fully set forth.

2  
3 28. Jonzun has a protectable interest in "This Is It".

4  
5 29. In the credits for "This Is It", Defendants deliberately  
6 give persons other than Jonzun sole credit for work Jonzun  
7 had added to "I Never Heard", a musical composition used in  
8 the creation of "This Is It".

9  
10 30. Defendants' deliberate conduct was intended to  
11 deceive consumers and lead them to believe the persons  
12 listed in the credits were entirely responsible for the  
13 composition of "This Is It".

14  
15 31. Defendants' falsely designate others persons as the  
16 sole originators of Jonzun's work.

17  
18 32. Jonzun, at the time, was a sought after music  
19 producer and songwriter/composer, who had written and/or  
20 produced for major Recording Artists throughout the world,  
21 including such Super Star Artists and Legends as Mick  
22 Jaggar with Peter Wolf, Clarence Clemons, Tom Browne,  
23 New Edition, New Kids On The Block, Laverne Baker, Ben  
24 E. King, Adrian Belew of King Crimson, Elliot Easton of The  
25 Cars, Stylistics, Engelebert Humperdink, Sugar Hill Gang,  
26 Grand Master Flash & The Furious Five, Afrika Bambaata  
27 and Jonzun's own band, Jonzun Crew, among others.

28  
29 33. As a result of Defendants' failure to give Jonzun



1 credit for the time and effort he put into the finishing the  
2 original composition of "I Never Heard", the precursor of  
3 "This Is It", Defendants' have deprived Jonzun of the  
4 advertising value of being associated with "This Is It", the  
5 album and movie, and the good will that would have  
6 stemmed from public knowledge of his collaboration in the  
7 composition.

8  
9 34. Jonzun is currently employed in the music and  
10 entertainment industry as a music producer,  
11 songwriter/composer, publisher, multi-instrumentalist,  
12 recording artist and performer.

13  
14 35. Defendants' conduct constitutes a violation of 15  
15 U.S.C. section 1125 (The Lanham Act) on account of which  
16 Jonzun suffered and continues to suffer damages wholly  
17 separate and apart from the damages which he incurred and  
18 continues to incur by reason of the Defendants' violation of  
19 17 U.S.C. section 1 et seq. (The Copyright Act) as more  
20 particularly set forth above.

21  
22 36. The Defendants' conduct described in Count II  
23 herein relates solely to the Defendants' failure to properly  
24 associate Jonzun's name with the work "This Is It" and is  
25 wholly separate and apart from Defendants' improper use of  
26 Jonzun's work as more particularly set forth in Count I.

**VII**

**THIRD CLAIM FOR UNJUST ENRICHMENT**

(Against All Defendants) Plaintiff realleges paragraphs 1 through 36,

37. Wholly separate and apart from the Defendants' violations of 17 U.S.C. section 1 et seq (The Copyright Act) and 15 U.S.C. section 1125 (The Lanham Act), the Plaintiff is entitled to an award of unjust enrichment for the use of his original work in the composition "This Is It".

WHEREFORE, plaintiff prays for judgment as follows:

(a) On the First Claim for relief, for a judicial declaration that plaintiff is the co-author and owner of an undivided one third percent (33.33%) interest in and to the copyright of "This Is It", as well as monetary damages believed to be in the vicinity of ten million dollars (\$10,000,000), that Jonzun sustained in consequence of Defendants' failure to credit Jonzun's work and failing to pay Jonzun his rightful share of all gains, profits and advantages generated by "This Is It".

(b) On the Second Claim for relief, an amount no less than four million dollars (\$4,000,000.) in additional damages Jonzun has sustained as a consequence of Defendants' actions in violation of 15 U.S.C. sec. 1125 (The Lanham Act) or in such other additional damages as to the Court shall

1 appear proper, and that such damages requested by trebled  
2 as allowed by 15 U.S.C. sec. 1117;

3  
4 (c) On the Third Claim for relief, an amount no less than  
5 ten million dollars (\$10,000,000) for the Defendants' unjust  
6 enrichment as a result of failing to credit Jonzun for his  
7 original work used in "This Is It";


8  
9 (d) pursuant to 28 U.S.C. section 505 and/or 15 U.S.C.  
10 Sec 1117, Defendants' jointly and severally, pay to Jonzun  
11 the costs of this action and reasonable attorneys' fees, and  
12

13 (e) that Defendants proffer any other relief that this court  
14 deems just and equitable.

15  
16 **DEMAND FOR JURY TRIAL**

17 Pursuant to Rule 38 of the Federal Rules of Civil  
18 Procedure, plaintiff hereby demands a jury trial.  
19

20  
21 Respectfully submitted,

22  
23   
24 Michael Jonzun  
25 15 Boulder Circle  
26 North Falmouth, MA 02556  
27

28  
29 Dated: October 26, 2012